

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PAUL J. McNALLY, as he is TRUSTEE,
MASSACHUSETTS LABORERS' HEALTH AND
WELFARE FUND and NEW ENGLAND LABORERS'
TRAINING TRUST FUND; JAMES MERLONI, JR.,
as he is TRUSTEE, MASSACHUSETTS LABORERS'
PENSION FUND and MASSACHUSETTS LEGAL
SERVICES FUND; MARTIN F. WALSH, as he is
TRUSTEE, MASSACHUSETTS LABORERS'
ANNUITY FUND,

Plaintiffs

vs.

J. MICHAEL LANDSCAPING, INC.,
Defendant

and

BARLETTA ENGINEERING CORPORATION;
MODERN CONTINENTAL CONSTRUCTION CO.,
INC.; and PEABODY CONSTRUCTION COMPANY,
INC.,

Reach-and-Apply Defendants

C.A. No. 05-11624 RWZ

ORDER FOR PRELIMINARY INJUNCTION

This matter, having come before me on the Plaintiffs' Motion for Preliminary Injunction, and upon consideration of the motion and memorandum of law on file, I find that:

- 1) Plaintiffs have exhibited a likelihood of success on the merits;
- 2) The Reach-and-Apply Defendants' secreting, concealing, destroying, damaging, selling, transferring, pledging, encumbering, assigning, or in any way or manner disposing of or reducing the value of, or making any payment to defendant J. Michael Landscaping, Inc. on account of sums that are due or will hereafter become due J. Michael Landscaping, Inc. from the Reach-and-Apply Defendants will result in irreparable injury, loss and damage to the Plaintiffs;

- 3) The issuance of a preliminary injunction herein will not cause undue inconvenience or loss to the Reach-and-Apply Defendants but will prevent irreparable injury to the Plaintiffs, and would further the public interest;
- 4) There is no adequate remedy at law;
- 5) There is no known insurance available to satisfy the judgment the Plaintiffs will obtain against Defendant J. Michael Landscaping, Inc.; and
- 6) The funds held by the Reach-and-Apply Defendants cannot be attached or taken on execution except pursuant to G.L. c. 214, §3(6).

WHEREFORE, it is hereby ORDERED that:

Plaintiffs shall be granted a preliminary injunction and the Reach-and-Apply Defendants and their agents, servants, employees, attorneys, and those persons in active participation or concert with them and those persons acting at their command who receive actual notices of a Preliminary Injunction order by personal service or otherwise, and each and every one of them, shall refrain from secreting, concealing, destroying, damaging, selling, transferring, pledging, encumbering, assigning, or in any way or manner disposing of or reducing the value of, or making any payment to defendant J. Michael Landscaping, Inc. on account of sums that are due or will hereafter become due J. Michael Landscaping, Inc. from any one of the Reach-and-Apply Defendants.

SO ORDERED.

The Honorable Rya W. Zobel
United States District Court

Dated: _____